

**REMARKS**

This is in full and timely response the Office Action dated April 4, 2005. Reexamination in light of the following remarks is respectfully requested.

Claims 14-28 are currently pending in this application, with claim 14 being independent.  
*No new matter has been added.*

**Prematureness**

Applicant, seeking review of the prematureness of the final rejection within the Final Office action, respectfully requests reconsideration of the finality of the Office action for the reasons set forth hereinbelow. See M.P.E.P. §706.07(c).

**Double patenting**

Paragraph 4 of the Office Action includes a rejection of claims 14-21 and 24-28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 4-7, respectively, of U.S. Patent No. 6,690,362 to Motoyama et al. (Motoyama) in view of Burk

This rejection is traversed at least for the following reasons.

Motoyama - The Final Office Action admits that the first and second electrodes, spacers, and details of the two sheets are absent from the claims of Motoyama. Instead, Burk has been cited by the Examiner for the features that are deficient from within Motoyama.

Burk - The Final Office Action contends that Burk teaches the first electrode being structurally adapted to come into contact with the second electrode (Final Office Action at page 2).

In response to this contention, Burk arguably teaches that a layer of a dielectric material, such as an acrylic, is then applied over the top of the electrodes on each membrane to prevent each set of electrodes from contacting the semiconductive rectangle or leads on the opposing membrane (Burk at column 1, lines 61-65). Burk arguably teaches the presence of two y-axis electrodes 26a and 26b and two x-axis electrodes 30a and 30b (Burk at figure 2, column 4, lines 44-47).

However, the two y-axis electrodes 26a and 26b of Burk are formed on a third, upper surface 28 of the intermediate circuit spacer 20, and the two x-axis electrodes 30a and 30b of Burk are formed on an opposite fourth, lower surface 32 of the intermediate circuit spacer 20 (Burk at figure 2, column 4, lines 44-47). Thus, Burk fails to disclose, teach or suggest y-axis electrodes 26a and 26b being structurally adapted to come into electrical contact with two x-axis electrodes 30a and 30b. As shown hereinabove, Burk fails to disclose, teach or suggest a first electrode that is structurally adapted to come into electrical contact with a second electrode.

Thus, the Final Office Action fails to show that all claimed features are found within the combination of Motoyama and Burk.

### Rejections under 35 U.S.C. §103

Paragraph 2 of the Office Action includes a rejection of claims 14-21, 24-26 and 28 under 35 U.S.C. §103 as allegedly being obvious over U.S. Patent No. 5,228,562 to Burk, in view of WO 94/14112 to Itoh et al. (Itoh), and of U.S. Patent No. 4,554,565 to Kito et al. (Kito).

This rejection is traversed at least for the following reasons.

Claim 14 and the claims dependent thereon include the features of:

a sheet-type switch portion having a first sheet, a second sheet, a first electrode, and a second electrode, said first and second electrodes being between said first sheet and said second sheet, said first electrode being structurally adapted to come into electrical contact with said second electrode; and

a reversible chromatic layer having at least two coatings, each of said at least two coatings being structurally adapted to exhibit thermochromism, said first sheet being between said reversible chromatic layer and said first electrode.

Itoh - Itoh arguably teaches a data input device having a color-change layer 50 (Itoh at figure 1). However, Itoh fails to disclose, teach or suggest first and second electrodes between a first sheet and a second sheet. In addition, Itoh fails to disclose, teach or suggest a first electrode structurally adapted to come into electrical contact with a second electrode. Instead, Itoh teaches the absence of a direct electrical contact between the upper conductive layer 1 and the resistive layer 2 (Itoh at page 10, lines 25-27).

The Final Office Action also admits that Itoh fails to disclose, teach or suggest a reversible chromatic layer having at least two coatings (Final Office Action at page 3).

Kito - Kito arguably teaches a support 1, a nonthermochromic image layer 2, a first reversible thermochromic image layer 3-1 and a second reversible thermochromic image layer 4-1 and 4-2 (Kito at figure 6, column 2, lines 38-44). But like Itoh, Kito fails to disclose, teach or suggest first and second electrodes between a first sheet and a second sheet.

Also like Itoh, Kito fails to disclose, teach or suggest a first electrode structurally adapted to come into electrical contact with a second electrode.

Burk - The Final Office Action contends that Burk teaches the first electrode being structurally adapted to come into contact with the second electrode (Final Office Action at page 2).

In response to this contention, Burk arguably teaches that a layer of a dielectric material, such as an acrylic, is then applied over the top of the electrodes on each membrane to prevent each set of electrodes from contacting the semiconductive rectangle or leads on the opposing membrane (Burk at column 1, lines 61-65). Burk arguably teaches the presence of two y-axis electrodes 26a and 26b and two x-axis electrodes 30a and 30b (Burk at figure 2, column 4, lines 44-47).

However, the two y-axis electrodes 26a and 26b of Burk are formed on a *third, upper surface 28* of the intermediate circuit spacer 20, and the two x-axis electrodes 30a and 30b of Burk are formed on *an opposite fourth, lower surface 32* of the intermediate circuit spacer 20 (Burk at figure 2, column 4, lines 44-47). Thus, Burk fails to disclose, teach or suggest y-axis electrodes 26a and 26b being structurally adapted to come into electrical contact with two x-axis electrodes 30a and 30b.

As a result, Itoh, Kito and Burk, either individually or as a whole, fail to disclose, teach or suggest a first electrode that is structurally adapted to come into electrical contact with a second electrode.

Allowance of the claims is respectfully requested.

### **Allowable subject matter**

Appreciation is expressed for the indication that claims 22 and 23 contain allowable subject matter.

### **Conclusion**

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable

reexamination and reconsideration of the application in light of the amendments and remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753 or the undersigned attorney at the below-listed number.

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: May 31, 2005

Respectfully submitted,

By \_\_\_\_\_  
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